

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

DOUGLAS HANDSHOE

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PLAINTIFF

v.

Civil No. 1:15cv382-HSO-JCG

VAUGHN PERRET, *et al.*

DEFENDANTS

**ORDER EXPEDITING BRIEFING AND SETTING HEARING ON MOTIONS
[309], [311], AND REMINDING PARTIES OF REQUIREMENT THAT THEY
APPEAR IN PERSON AT PRETRIAL CONFERENCE**

BEFORE THE COURT are the following two pro se Motions filed on December 17, 2018, by Defendant/Counterclaimant Charles Leary (“Leary”): (1) a Motion [309] Under Rule of Evidence 201 and Federal Rule of Civil Procedure 54 Regarding Dismissal of Leary’s Claim Under 11 U.S.C. § 362(k); and (2) a Motion [311] to Strike Defense Pleadings Under Federal Rules of Civil Procedure 12(f) and 8. For the reasons that follow, the Court will expedite briefing on these Motions [309], [311] and will set them for an in-person hearing on **Wednesday, January 9, 2019, at 9:00 a.m.**, at the Dan M. Russell, Jr., United States Courthouse, 2012 15th Street, Courtroom 706, Gulfport, MS 39501, before United States District Judge Halil S. Ozerden.

This matter has been pending for over three years and is set for trial on the Court’s February 2019 trial calendar. The pretrial conference is scheduled for January 24, 2019, at 10:30 a.m. The only claims remaining for trial are Leary’s Counterclaims [233] against pro se Plaintiff/Counter-Defendant Douglas Handshoe

for (1) malicious prosecution; (2) misrepresentation under 17 U.S.C. § 512(f), related to the “late January, 2016,” counter-notification sent to Amazon Web Services; and (3) copyright infringement. *See* Order [305] at 14-15.¹

The parties have filed numerous Motions throughout the pendency of this case, including several motions for reconsideration. On December 17, 2018, Leary filed a Motion [309] Under Rule of Evidence 201 and Federal Rule of Civil Procedure 54 Regarding Dismissal of Leary’s Claim Under 11 U.S.C. § 362(k), and a Motion [311] to Strike Defense Pleadings Under Federal Rules of Civil Procedure 12(f) and 8. Due to the impending trial and pretrial conference dates, the Court finds that briefing on these two Motions [309], [311] should be expedited. Moreover, under the circumstances and in order to expedite consideration and resolution of the Motions [309], [311], the Court will set these Motions for an in-person hearing on **Wednesday, January 9, 2019, at 9:00 a.m.** The parties are ordered to appear in person at this hearing to argue their respective positions on these Motions. The parties are further reminded that the pretrial conference in this matter remains scheduled for **January 24, 2019, at 10:30 a.m.**, and that both Handshoe and Leary must attend in person. *See* Order [308] at 1-8.

IT IS, THEREFORE, ORDERED AND ADJUDGED that, Plaintiff/
Counter-Defendant Douglas Handshoe’s Responses to Defendant/Counterclaimant

¹ Handshoe’s only remaining claim is one contained in Count 3 of the Third Amended Complaint against Defendants Progress Media Group Limited of Nova Scotia and Marilyn Smulders for alleged misrepresentation under 17 U.S.C. § 512(f). *See* 3d Am. Compl. [90] at 36-38. Both Progress Media and Smulders are in default. *See* Clerk’s Entry of Default [150] at 1.

Charles Leary's Motion [309] Under Rule of Evidence 201 and Federal Rule of Civil Procedure 54 Regarding Dismissal of Leary's Claim Under 11 U.S.C. § 362(k), and Leary's Motion [311] to Strike Defense Pleadings Under Federal Rules of Civil Procedure 12(f) and 8, are now due on or before **December 28, 2018**, and any Reply is due on or before **January 3, 2019**.

IT IS, FURTHER, ORDERED AND ADJUDGED that, Defendant/Counterclaimant Charles Leary's Motion [309] Under Rule of Evidence 201 and Federal Rule of Civil Procedure 54 Regarding Dismissal of Leary's Claim Under 11 U.S.C. § 362(k), and Motion [311] to Strike Defense Pleadings Under Federal Rules of Civil Procedure 12(f) and 8 are **SET FOR AN IN-PERSON HEARING on Wednesday, January 9, 2019, at 9:00 a.m.**, at the Dan M. Russell, Jr., United States Courthouse, 2012 15th Street, Courtroom 706, Gulfport, MS 39501, before United States District Judge Halil S. Ozerden. **The parties are cautioned that a party's failure to attend the hearing as scheduled may be deemed contumacious behavior.**

IT IS, FURTHER, ORDERED AND ADJUDGED that, the Pretrial Conference in this case remains set for **January 24, 2019, at 10:30 a.m.** in the Dan M. Russell, Jr., United States Courthouse, 2012 15th Street, Courtroom 706, Gulfport, MS 39501, before United States District Judge Halil S. Ozerden. **The parties must attend the pretrial conference in person. See Fed. R. Civ. P. 16(a) & 16(e); L.U. Civ. R. 16(j)(6)(A).** All parties are cautioned that should they fail to appear at the Pretrial Conference, the Court may conduct an

ex parte hearing, dismiss that party's claim(s) or counterclaim(s), render default or other appropriate judgment against that party, and impose other sanctions without further notice. *See* Fed. R. Civ. P. 16(f)(1) & 37(b)(2)(A)(v)-(vi); L.U. Civ. R. 16(j)(6)(A).

SO ORDERED AND ADJUDGED, this the 20th day of December, 2018.

s/ Halil Suleyman Ozerden

HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE